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SENATE

{ REPORT
No. 1916 }

LT. COMDR. EVAN L. KROGH

JUNE 27, 1952.—Ordered to be printed

Mr. McCARRAN, from the Committee on the Judiciary, submitted the following

REPORT

[To accompany H. R. 2713]

The Committee on the Judiciary, to which was referred the bill (H. R. 2713) for the relief of Lt. Comdr. Evan L. Krogh, having considered the same, reports favorably thereon, without amendment, and recommends that the bill do pass.

PURPOSE

The purpose of the proposed legislation is to pay the sum of \$518 to Lt. Comdr. Evan L. Krogh, United States Naval Reserve, Arlington, Va. The payment of such sum shall be in full settlement of all claims of the said claimant against the United States arising out of official travel performed by him between Washington, D. C., and Red Bank, N. J., between April 30, 1944, and July 16, 1944.

STATEMENT

The committee in giving consideration to this bill has thoroughly studied the adverse report of the Navy Department and the evidence submitted by Lieutenant Commander Krogh, and is of the opinion that he should be reimbursed in the amount set forth in the bill. A letter addressed to Congressman Sanborn, dated January 6, 1950, from Lieutenant Commander Krogh, is self-explanatory and is as follows:

ARLINGTON, VA., January 6, 1950.

Congressman JOHN SANBORN,
House of Representatives, Washington, D. C.

DEAR MR. SANBORN: In accordance with your recent request, I am enclosing two copies of my letter to you dated August 1, 1949, and enclosures, in support of the bill for my relief, identified as H. R. 5960.

Reference is made to the letter to the Honorable Emanuel Celler, chairman of the Committee on the Judiciary, House of Representatives, dated November 23, 1949, from Capt E. E. Woods, Acting Judge Advocate General of the Navy. This letter recommended against enactment of this bill, stating " * * * that

Lieutenant Commander Krogh received all the reimbursement to which he was entitled between April 30, 1944, and July 16, 1944, and that additional payment as authorized by the proposed legislation would discriminate in his favor against other Navy personnel in a comparable position who received per diem in accordance with applicable regulations."

In the above period, from May 1, 1944, to July 15, 1944, inclusive, I received no per diem reimbursement while away from my permanent duty station on official travel. The sum of \$518 specified in the above bill must be disbursed to me before I have "all the reimbursement" I am entitled to receive under my repeat travel orders dated January 4, 1943, and AlNav 138.

In light of the above letter from the Navy, on December 9, 1949, I conferred with Captain Woods in his office. He said, "Our hands are tied once the GAO has disallowed a claim." However, he wished me luck in connection with this bill.

Please communicate with me in the event further information is desired, or if I am wanted for questioning before any congressional committee. Expressing my appreciation and thanks, I am

Very respectfully,

EVAN L. KROGUE,
Lieutenant Commander, USNR.

NAVY DEPARTMENT,
OFFICE OF THE JUDGE ADVOCATE GENERAL,
Washington, D. C., November 23, 1949.

Hon. EMANUEL CELLER,
*Chairman of the Committee on the Judiciary,
House of Representatives.*

DEAR MR. CHAIRMAN: The bill (H. R. 5960) for the relief of Lt. Comdr. Evan L. Krogh was referred by your committee to the Navy Department with a request for a report thereon.

The purpose of the bill (H. R. 5960) is to authorize payment in the amount of \$518 to Lt. Comdr. Evan L. Krogh, United States Naval Reserve, of Arlington, Va., in full settlement of all claims of this officer arising out of official travel performed by him between Washington, D. C., and Red Bank, N. J., during the period April 30, 1944, to July 16, 1944.

The records of this Department show that Lieutenant Commander Krogh was on temporary duty at Red Bank, N. J., under repeated travel orders including per diem allowance during the period from December 3, 1943, to September 1, 1944. He received \$833 in the form of per diem allowance in lieu of subsistence for his temporary duty at Red Bank for the period December 3, 1943, to April 1, 1944.

Naval Travel Instructions provide that, effective May 1, 1944, payment of per diem to Navy personnel will be limited to a period of 60 days at any one temporary duty station. Lieutenant Commander Krogh subsequently submitted a claim for per diem in lieu of subsistence and official travel during the period of temporary duty from April 1, 1944, to July 15, 1944. Under this claim he was allowed \$203 for per diem during the month of April, and \$17.60 for travel performed between Washington, D. C., and Red Bank, consisting of one round trip in April 1944 and one round trip in June 1944. A claim for per diem during the period of May 1, 1944, to July 15, 1944, was denied by the General Accounting Office for the reason that Lieutenant Commander Krogh was prohibited from drawing further per diem payment while on temporary duty at Red Bank, N. J., by the above provision of Naval Travel Instructions.

It is the view of the Navy Department that Lieutenant Commander Krogh received all the reimbursement to which he was entitled between April 30, 1944, and July 16, 1944, and that additional payment as authorized by the proposed legislation would discriminate in his favor against other Navy personnel in a comparable position who received per diem in accordance with applicable regulations.

In view of the foregoing, the Navy Department recommends against enactment of the bill H. R. 5960.

The Navy Department has been advised by the Bureau of the Budget that there is no objection to the submission of this report to the Congress.

For the Secretary of the Navy.

Respectfully yours,

E. E. Woods,
*Captain, United States Navy,
Acting Judge Advocate General of the Navy.*

SEPTEMBER 14, 1945.

To: General Accounting Office.

Attention: Audit Division.

Subject: Settlement of per claim for Lt. Evan L. Krogue, USNR, Navy Land Office, 157 Broad Street, Red Bank, N. J.

1. Reference is made to the Form 40A, Advice of Payment of Settlement to Accompany Check, relative to claim No. 1155815 made by Lt. Evan L. Krogue, covering travel expenses from the period April 1, 1944, to July 15, 1944, in the amount of \$738.60. This voucher was allowed in the amount of \$17.60. It is noted that the claim was disallowed for the reason that Lieutenant Krogue had been on duty in Red Bank, N. J., from December 3, 1943, to March 31, 1944, and that travel to Washington, D. C., over the week ends did not constitute a break in the period of temporary duty at Red Bank giving him right to additional per diem allowance in excess of 60 days.

2. This is to advise that Lieutenant Krogue was ordered by telephone to return to the Bureau periodically and that it was the policy of the Real Estate Division to order him back to the Bureau on week ends in order that a minimum of time would be consumed while away from Red Bank. The character of the work being performed at Red Bank in the acquisition of land for an ammunition depot was considered of the highest priority, and as Lieutenant Krogue was required to report to the head of the Real Estate Division the status of this land-acquisition matter periodically, it was imperative that he return to Washington on the occasions that he did report. Upon the completion of his reports while in Washington each trip, most of which were verbal, he was ordered back to Red Bank for additional temporary duty. It was not the intent of the Bureau in ordering Lieutenant Krogue to Washington, D. C., to circumvent rules or regulations prescribing that per diem would not be allowed at temporary additional duty stations in excess of 60 days (ALNAV 80, dated April 20, 1944). His returning to Washington was for official business and not for personal convenience.

3. Therefore, as the spirit of the law was not violated and certainly as he was not in Red Bank for periods in excess of 60 days, it is strongly recommended that the disallowance of \$721 from the subject claim be reconsidered and allowed.

4. On August 18, 1944, when it was decided that Lieutenant Krogue would be retained in the Red Bank office, the Bureau requested that his travel orders, dated January 4, 1943, R-3104, be modified so as to prohibit him claiming per diem while stationed in Red Bank. These orders were revised accordingly by the Bureau of Naval Personnel, effective September 1, 1944.

5. During this time, from December 3, 1943, to September 1, 1944, this officer was required to pay all his expenses while living away from home and also maintain his home in Arlington, Va. He never rented his home during this time. With the exception of his wife, he never had anyone living there, since he expected to return from Red Bank without much notice.

6. In light of these circumstances, it is requested that the vouchers Lieutenant Krogue has submitted for the period from April 1, to August 31, 1944, be approved and paid.

By direction of the Chief of the Bureau of Yards and Docks.

ANDREW J. MURPHY, Jr.,
Head, Real Estate Division.

ARLINGTON, VA., August 1, 1949.

Congressman JOHN SANBORN,
House of Representatives, Washington, D. C.

DEAR MR. SANBORN: Pursuant to our conference on July 29, 1949, I desire to submit certain information relative to a proposed bill for my relief in the amount of \$518 to be considered by this Congress. The attached papers identified as exhibits are intended to substantiate this claim.

The claim in question is for official travel performed by me as a naval officer between Washington, D. C., and Red Bank, N. J., from April 1 to July 15, 1944, pursuant to repeat travel orders (exhibit 2). Voucher for this travel (exhibit 3) in the amount of \$738.60 was disallowed by the General Accounting Office, except for two settlements in the amounts of \$17.60 and \$203 (exhibits 4 and 5), leaving a balance due, the amount of this claim, in the amount of \$518 (exhibit 1).

The GAO in disallowing this claim (exhibits 9 and 11), cited AINav No. 80, dated April 20, 1944, and quoted therefrom as follows:

"Effective May 1, 1944, officers traveling on change of duty orders or temporary additional duty orders which are subject reimbursement on per diem basis

will be allowed per diem \$7 while traveling and for not more than 60 days total time not necessarily continuous spent at any one temporary duty station on any one set orders unless otherwise specifically provided for in orders as authorized by Bureau of Personnel or later approved by Bureau of Personnel. This applies any one trip repeated travel orders. All outstanding orders not completed are subject to above in that after April 30, 1944, no per diem allowed at temporary duty station at which officer has spent more than 60 days unless orders specify otherwise * * * necessary instructions will be issued in change No. 16 Navy travel instructions. * * *

The GAO took the position that "the trips to Washington on the dates indicated did not terminate your duty at Red Bank and did not start new 60-day periods of temporary duty at that place."

I was verbally directed to report to the Navy Land Office, Red Bank, N. J., for duty lasting "about 1 month" in connection with the acquisition of land for the naval ammunition depot. This acquisition "was considered of the highest priority," and I "was required to report to the Head of the Real Estate Division * * * periodically * * *" (exhibit 8).

After a few weeks it appeared this assignment would take several months. The Head of the Division, however, informed me he expected to send me to one of three district offices just as soon as I could be spared from Red Bank, and I was not to consider Red Bank as my new duty station. I was ordered back to Washington on week ends so that I would be absent from the Red Bank office only on Mondays. I would report and have conferences on the New Jersey acquisition, but occasionally the trips were also made to Washington in connection with the acquisition at Quantico, Va., where I had been the officer in charge. All my travel was performed out of the Washington office, my permanent duty station, and during this time and subsequent thereto, I was under the expense of maintaining my home in Arlington, Va.

The Real Estate Division informed me that the above AlNav would not affect my per diem, since I was never in Red Bank for a period of 60 days or longer and each trip out of Washington was an independent and separate trip, starting another period of work in Red Bank. Each time I was ordered to Red Bank to assist Lt. Lon Worth Crow, Jr., the officer in charge. When it developed the work would continue indefinitely, my orders were modified by orders dated September 1, 1944 (exhibit 12). This modification was the first written directive with reference to Red Bank duty. It is particularly noted that these orders are a modification of my previous orders (exhibit 2), are effective as of September 1, 1944, and state "you will be entitled to reimbursement at the rate of \$7 per diem. in lieu of subsistence (see U. S. Navy Travel Instructions, art. 2511), except while at Red Bank, N. J." From these orders it is apparent that the Navy intended to provide for per diem allowance in Red Bank until this date.

The Bureau of Yards and Docks (exhibit 6) certified "the account is correct and just and should be paid." On August 28, 1944, the Chief of Naval Personnel (exhibit 7) recommended payment of this claim. On July 27, 1949, the official in charge of the Pay and Allowance Section of the Office of the Judge Advocate General of the Navy, said this claim should have been paid, but he could do nothing in this regard after an opinion had been rendered by the GAO. I was advised to come to you with the thought in mind of getting relief from this Congress.

I feel all the equities are with me since I was performing travel pursuant to official orders. Payment of this claim in the amount of \$518 will help reimburse me for expenses I was required to incur in performing my duties in accordance with these orders.

Expressing my appreciation and thanks for your attention to this matter, I am
Very respectfully,

EVAN L. KROGH,
Lieutenant Commander, USNR.

Claim filed July 15, 1944	-----	\$738. 60
Certificate No. 1010752 dated Mar. 30, 1945	-----	\$17. 60
Certificate No. 1320977 dated Apr. 23, 1946	-----	203. 00
Total	-----	220. 60
Balance—amount of claim No. 1155815	-----	518. 00

JULY 3, 1946.

ASSISTANT COMPTROLLER GENERAL OF THE UNITED STATES,
Washington, D. C.

DEAR SIR: Reference is made to the opinion of the Assistant Comptroller of the United States dated March 29, 1946, No. B-54564 concerning the per diem claim for Lt. Evan L. Krogue, USNR, which was disallowed for per diem allowance incident to temporary duty performed at Red Bank, N. J., under Bureau of Personnel travel orders dated January 4, 1943.

It is desired to point out certain other significant factors in connection with the per diem claim of Lt. Evan L. Krogue that will no doubt modify the position of the Assistant Comptroller General as reflected in opinion B-54564. The purpose of the Bureau in ordering Lieutenant Krogue to return to Washington, D. C., periodically to report regarding land-acquisition matters at Earle, N. J., was to determine whether the status of the many tracts of land being acquired in that area would admit of his being reassigned to other land-acquisition projects which were of the utmost importance, and which required the attention of officers having considerable experience in Federal and acquisition procedures. During these brief stays in Washington and the discussions that followed, it was necessary for the Bureau to determine whether it was in the best interests of the United States to order Lieutenant Krogue back to Red Bank or whether to order him to another naval district to supervise the land-acquisition matters pending in that area.

In view of the priority assigned to the acquisition of land for the naval ammunition depot at Earle, it was found that each time Lieutenant Krogue returned to Washington, D. C., that the land-acquisition matters pending there would be impeded greatly by assigning him elsewhere. Consequently, he was ordered each time to return to Red Bank to see that those matters were processed sufficiently for enough to permit the Bureau to reassign Lieutenant Krogue.

By direction of the Chief of the Bureau of Yards and Docks.

ANDREW J. MURPHY, Jr.,
Captain, USNR, Head, Real Estate Division.

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